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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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Analysis of House Bills 5025 & 5026 (As Passed House) And Senate Bills 382 & 383(As Passed Senate)

Topic: Landscape Architect Licensure
Sponsor: House Bills: Marie Donigan
Senate Bills: Wayne Kuipers
Co-Sponsors: House Bills 5025: Kathleen Law, Shanelle Jackson, Hoon-Yung
Hopgood, Rebekah Warren, Aldo Vagnozzi, Andy Meisner
House Bill 5026: Kathleen Law, Shanelle Jackson, Hoon-Yung
Hopgood, Aldo Vagnozzi, Andy Meisner
Committee: Senate Economic Development and Regulatory Reform
House Commerce
Date Introduced: House Bills: July 10, 2007
Senate Bills: March 28, 2007
Date Passed Senate: Senate Bills: May 6, 2008
Date Passed House: House Bills: September 24, 2008
Date Enrolled:
Date of Analysis: September 25, 2008

Position: The Department of Labor & Economic Growth supports the bills.

Problem/Background: Landscape architects have been regulated through registration under the Michigan Occupational Code for many years. Registration is permissive, and considered title protection only, so there are no practice provisions or enforcement in the act, except for those who are registered. The American Society of Landscape Architects reported that as of June 2008, 41 states had licensure requirements for landscape architects, while Michigan was one of 8 states with registration only. 2 other jurisdictions had no regulatory requirement. In 2007, the Board of Landscape Architecture was one of 29 other boards eliminated by Executive Order 2007-23 due to inactivity and as part of an effort to streamline government.

The American Society of Landscape Architects' Michigan Chapter has been actively seeking licensure to ensure that the Occupational Code protects the public and enforces practice provisions as well as the occupational title. The profession also wants to reinstate the board of Landscape Architecture, as it believes there will be a greater need than before for professional input if the practice provisions are enacted. The profession has worked for several years to get the licensing provisions in the article, working with other interested parties to develop compromise language that minimizes potential opposition.

Description of Bill: The bills in the House mirror the bills in the Senate.
House bill 5025 and Senate bill 382 would do the following:

- Change the type of regulation from “registered” or “registration” to “licensed” or “licensure” throughout article 22 of the Occupational Code, which pertains to landscape architects.
- Add an exemption from licensure for those occupations that do some similar activities to landscape architects but do not have the same education, training, or experience. The bill recognizes the following as separate occupations, not landscape architects: landscape designers, landscape gardeners, landscape contractors, and landscape nursery operators.
- Adopts language similar to that in the article relating to licensing requirements for architects, land surveyors and engineers that would allow for continuing education requirements for landscape architects as provided in rule.
- As a compromise that allows professional input without reinstatement of the Board of Landscape Architecture, the bill provides for the appointment of ad hoc committees of persons including a majority of professional landscape architects. The committees would assist the department by recommending rules, suggesting revisions to rules for the practice of landscape architecture, assisting in the development of continuing education requirements, and recommending penalties for violation of the law and rules.

Senate Bill 383 and House Bill 5026 update the State License Fee act to provide the following changes in fees:

- Increases the two-year renewal fee from \$80 to \$120.
- Updates the application processing fee from \$35 to \$200 to reflect the amount of work involved in the coordination and review of application documents for issuance of the license.

Arguments For:

- Landscape architects should be licensed to give the public greater protection through department regulation. The requirements for the occupation are extensive and can have a significant effect upon the health and safety of the public because of the extensive public works with which they may be involved.
- The language allows for development of a continuing education requirement, which is something that professionals need to maintain current knowledge and skills in a changing environment.
- Licensure will give this profession greater standing with other design professions, which they have not had with registration. Licensure will allow landscape architects to conduct business within their scope of licensure independently of architects or engineers. This change addresses an issue where landscape architects may have previously been required to sign their designs because of licensing requirements in the building codes.
- These bills have been carefully crafted to make them acceptable to architects, which have opposed licensure for landscape architects in previously introduced bills. They offer professional standing to landscape architects, but allow for a narrow overlap between the professions, depending upon the individual’s training and expertise.
- Additional fees are not burdensome to the occupation, but are just sufficient to implement new requirements added to the regulation of this occupation.

Arguments Against:

- Some may argue that landscape architects do not impact the public health or safety as greatly as other design professionals, as evidenced by the number of exemptions to licensure. *Response: However, the more complex and public-related projects are completed by the professional landscape architects, so the limited projects completed by landscapers and designers do not compare.*
- The bills will add costly burdens to the department of labor and economic growth at a time when staffing is limited, and the state should be decreasing regulation rather than adding it. *Response: However, to mitigate some of the cost, compromise language allows the department time to work on a proposal to provide effective continuing education requirements at minimum cost to the state.*
- Fees are increased for individuals practicing landscape architecture at a time when economic conditions make it difficult for these individuals to afford these additional costs. *Response: As stated above, there is an added burden to the state to convene committee meetings and update outdated rules. Enforcement will also increase, so additional fees were developed through compromise of the parties involved to provide a minimum amount that could adequately support the new services to the profession. Application fees are higher than most states, but the renewal fees tend to be similar to or lower than other states.*

Supporters:

Michigan Association of Home Builders;
Michigan Nursery and Landscape Association; and
Michigan Chapter - Landscape Architects.

Opponents:

No opposition has been received regarding these bills, after negotiations resulted in the current wording.

Fiscal/Economic Impact:

a) **Department:** Increased costs will result from the development of practice rules, continuing education, and paying costs for the ad hoc committees needed to develop them. Very few, if any complaints are expected, given the history of the occupation, so overall the impact will be very little. Increased fees supported by the occupation should cover the additional expense.

Budgetary: Costs are difficult to calculate. It is unknown whether licensure and practice complaints will increase with this legislative change. It is also unknown how many new applicants will apply for licensure in Michigan when the law becomes effective, although a conservative estimate of 200 new applicants in the first year has been suggested.

Information Technology: Minimum costs are expected depending upon how the continuing education requirements are implemented.

Revenue: If 200 new applicants are realized, the revenue would be an additional \$33,000. If all 618 current licensees renew, there would be an additional \$24,720 realized for two years. These fees would offset the increased costs to the agency.

b) **State of Michigan:** Landscape architects hope to retain new professionals from the universities in Michigan who graduate talented and skilled landscape architects. Currently, those interested in licensure must find jobs outside the state.

c) **Local Government:** The bills will have no direct local government impact.

Other State Department: Other departments that use landscape architects will need to be aware of the new fees and potential continuing education requirement for licensees to maintain their credentials.

Administrative Rules Impact: Administrative rules will be needed to implement the practice aspects and continuing education requirements of the new legislation.